



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

ROY L. SMITH,
Plaintiff,

vs.

NURSE AMY L. SMITH,
Defendant

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CIVIL ACTION NO. 9:07-275-HFF-GCK

ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE MAGISTRATE JUDGE

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge, suggesting that (1) Defendant's motion to dismiss be granted and (2) Plaintiff's motion for summary judgment be found as moot. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on June 21, 2007, and the Clerk of Court entered Plaintiff's objections to the Report on June 28, 2007. The Clerk entered Plaintiff's additional objections on July 3, 2007, and July 5, 2007. The Court has reviewed Plaintiff's objections, but finds them to be without merit.

After a thorough review of the Report, the objections thereto, and the record in this case pursuant to the standard set forth above, the Court overrules Plaintiff's objections, adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that (1) Defendant's motion to dismiss be **GRANTED** and (2) Plaintiff's motion for summary judgment be found as **MOOT**.

IT IS SO ORDERED.

Signed this 22nd day of January, 2008, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within 30 days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.